

PRIVATE LAND CLAIMS IN MISSOURI.

[To accompany bill H. R. No. 669.]

REPORT

OF

THE SECRETARY OF THE TREASURY,

*Relative to private land claims in Missouri.*

JANUARY 22, 1835.

Printed by order of the House of Representatives.

TREASURY DEPARTMENT,

*January 14, 1835.*

SIR: In obedience to the resolution of the House of Representatives of the 12th instant, requesting the Secretary of the Treasury "to return to the House the report, referred to him at the last session, of the commissioners appointed to examine and adjust private land claims in Missouri, with such remarks as he may think proper to make thereon," I have the honor to inform the House, that, on the 4th of September last, this department transmitted a copy of the report of the commissioners to the Attorney General of the United States, and another to the Commissioner of the General Land Office; and at the same time requested the opinion of those officers on the validity of the several claims acted and reported on by the commissioners.

On the 23d of October last, another communication was made to the Attorney General, requesting his opinion upon the principles of law assumed by the commissioners in their adjudication upon the claims reported, to enable the Commissioner of the General Land Office to make a satisfactory examination, and report to the department; and, also, as essential to my own guidance, in replying to the resolution of the 30th of June last. To this communication a reply was received from the Attorney General yesterday, and is hereto annexed (A.)

As the call of the House of the 12th instant seems to contemplate an immediate answer, and therefore precludes the possibility of further investigation by this department of those claims, since receiving the opinion of the Attorney General yesterday, and of obtaining the report of the Commissioner of the General Land Office, which awaited the result of that opinion, I have deemed it proper to return herewith to the House the report of the commissioners, without the delay which would

be necessary (since receiving that opinion) to procure the views of the Commissioner of the General Land Office, and without the still further delay which would be necessary should this department make additional inquiries and remarks on the opinions and views finally presented by those officers.

I have the honor to be, sir,

Very respectfully,

Your obedient servant,

LEVI WOODBURY,

*Secretary of the Treasury.*

HON. JOHN BELL,

*Speaker of the House of Representatives.*

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A.

ATTORNEY GENERAL'S OFFICE,

*January 12, 1835.*

SIR: In your letter of the 22d of October, 1834, you requested my opinion upon the legal principles assumed by the recorder and commissioners for the adjustment of land titles in Missouri, under the acts of the 9th of July, 1832, and the 3d of March, 1833, as stated in the report made by them to the House of Representatives, and by that body referred to you. By your letter, and by the papers which accompanied it, I was informed that the report had been referred by you to the Commissioner of the General Land Office, with directions to examine and report upon the validity of the claims therein enumerated; and that you had been induced to call for my opinion in consequence of a suggestion made to you by that officer, that the principles and resolutions assumed by the Board involved not only questions of international law, but others respecting the powers, duties, and responsibilities of the various classes of officers making the grants, as well as the existence of any regulations by which they were to be governed in the performance of their duties, with which he was not familiar, and upon which the opinion of the Attorney General was necessary to the making of a satisfactory examination and report. As a further reason for the adoption of this course, the Commissioner of the General Land Office remarked that "the subject of individual claims to lands, under the different kinds of title emanating from foreign Powers, having been brought before the Supreme Court of the United States for several of their last terms, in cases in which the United States were parties, and where the whole subject has been argued by the Attorneys General of the United States, with the assistance of other counsel, and some of the principles involved in these cases having been decided by the court, those points were, therefore, much more accurately understood by the Attorney General, than they could possibly be by his office." Although strongly inclined to think that the circumstances referred to were not sufficient to obviate the objections made to you in my letter of the 17th of October, I was yet so well satisfied of the reasonableness of the suggestions made by the Commissioner of the General Land Office,

and of the great burden imposed upon you by this reference, as to be sincerely desirous to relieve both him and yourself by any aid I might be enabled to afford. But as none of the cases referred to by the Commissioner had been argued or examined by me, and as I had not the slightest acquaintance with the subject of these peculiar titles, I thought it proper to defer the examination of the subject until I could obtain the advice and assistance of General Call, of Florida, who has been, for several years, the counsel of the Government in analogous cases, and has taken part in the argument of several before the Supreme Court, and whose attendance here, with a view to the preparation of a very important cause, involving many of the questions on which you desire to be advised, I had reason to expect on the 1st instant.

Owing to some cause, not yet known to me, that gentleman has not arrived; and as I cannot, with propriety, retain the papers any longer, I herewith return them to you. I regret that I do not feel myself sufficiently familiar with the subject to express an opinion on any of the principles assumed by the commissioners, except those stated in their first and second resolutions. The former of these is undoubtedly correct in point of fact; and the other is founded on, and accords with, the decision of the Supreme Court in the case of Arredondo, which has since been followed in several subsequent cases.

The papers are herewith returned.

I have the honor to be,

Very respectfully,

Your obedient servant,

B. F. BUTLER.

The honorable LEVI WOODBURY,

*Secretary of the Treasury.*

